IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL JURISDICTION

CONTEMPT PETITION NO. 71 OF 2005

IN

SUIT NO. 454 OF 1980

Mr. A.P. Lewis .. .. Petitioner

[Orig.Deft.No.10]

Versus

Mr. S.V. Sule .. .. Respondent

[Orig.Deft. No.3]

Contemnor

Mr. D.V. Merchant a/w Mr. Sanjay Jain and Mr. R.L. Tolat i/b L.C. Tolat & Co. for the Petitioner.

Mr. Navin Parekh a/w Mr. Hetal Patel for the Respondents.

CORAM : S.K. SHAH, J.

DATED : 26.9.2005.

P.C.-

1. Heard the learned Counsel for the Petitioner.

2. The suit was disposed of by this Court by an order dated 17.2.1994, whereby the suit was decreed in terms of the Consent Terms filed by the parties. The Consent Terms incorporated certain undertakings given to the Court and the same were accepted. These undertakings are incorporated in para -2[A]. There is another undertaking given in para-24, whereby the defendant No.3 and 10 had given undertaking to

this Court that-

> "they shall and will faithfully abide by and observe, perform and comply with the terms and provision of the said separate Agreement executed between them. "

Accordingly, separate agreement was executed, wherein the defendant No.10 had given the business of running the Cinema Theatre to the defendant No.3. Subsequent thereto, on 7.4.2000, the defendant No.3 surrendered the business to the defendant No.10.

3. Now the grievance which is made by the Petitioner is that the defendant No.3 is obstructing the defendant No.10 to run the Cinema Theatre and, therefore, the Petitioner files the Contempt Petition.

4. This grievance is not forming part of any of the undertakings given to the Court. Therefore, the Contempt Petition does not lie.

5. The Contempt Petition, therefore, is dismissed.

[S.K. SHAH, J.]